

**Suggestions**  
**on**  
**Simplifying GST for SME / MSME**  
**Sector**



**The Institute of Cost Accountants of India**  
(Statutory body under an Act of Parliament)

MSMEs play a vital role in the nation building as they employ more than 50 million people across the segments in the country by contributing about 40% of the country's exports, 45% of the manufacturing sector and 69% of the employment generation. With the rollout of GST, their contribution towards the revenue collection has also increased. They contribute to around 11% of the GST Collections. GST has provided a level playing field as they can take input tax credit on their inputs goods and services, thereby resulting in lesser costs and compete with the large players in the market. In the erstwhile tax regime, they were not able to take the credit as most of the units' turnover is less than Rs 150 lacs and as a result, they were not registered with the Central Excise.

## **1. Reversal of Input Tax Credit**

### **Background:**

As per the provisions of the CGST Act, input tax credit has to be reversed if the recipient fails to pay the supplier within 180 days from the date of issue of the tax invoice by the supplier. Delay in payments always impacts the business operations and specifically for the MSME's a lot, as it is part of the working capital and lifeline for their business.

### **Suggestion:**

This provision has to be amended to MSME, i.e., in case if the supplier of goods or services or both is from MSME category the time limit should be reduced to 90 days. It should be extended to all the taxpayers having MSME registration or for a class of taxpayers having turnover up to Rs 500 Lacs.

## **2. Definition of "Aggregate Turnover"**

### **Background:**

Definition of "aggregate turnover" as per Section 2(6) of the CGST Act, 2017 ("**CGST Act**") inter alia, means aggregate value of all taxable supplies, exempt supplies, exports and inter- state supplies of persons having the same Permanent Account Number, to be computed on all India basis.

### **Suggestion:**

Exempt supplies must not form part of "aggregate turnover" to determine threshold limit for taking registration in GST. It must be excluded from the Aggregate Turnover. The threshold limit of 20 Lakhs more will be significant for SME/MSME sector. This will enable a small taxpayer having majorly exempt supplies with only a small portion of taxable supplies to remain out of the net of GST.

### **3. Definition of "supply"**

#### **Background:**

As per Section 7(1) of the CGST Act, "For the purposes of this Act, the expression "supply" includes-- ". GST Council in their draft of 46 amendments in the GST Law ("GST amendments") has proposed to be amended the definition to exclude activities/ transactions listed in Schedule II to ensure that the activities/ transactions as per Schedule II is to decide only whether the same is supply of goods or services. Hence, activities/ transactions listed in Schedule II (as supply of service or supply of goods) shall be taxed only when they constitute "supply" in accordance with provisions of Section 7(1)(a), (b) and (c) of the CGST Act, 2017.

#### **Suggestion:**

The definition of term "Supply" must be defined concretely as this is the taxable event in GST. The definition of the term "Supply" starts with "supply includes" is too wider definition and with subjectivity followed by inclusive definition. It must be defined concretely so as to avoid any dispute or litigation.

### **4. Definition of "composite supply"**

#### **Background:**

Section 2(30) of the CGST Act defines Composite supply as a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

#### **Suggestion:**

Suitable Clarification is to be provided that if separate considerations are charged for various goods and services supplied in conjunction with each other in ordinary course of business, the same shall also amount to composite supply. A clarity is required to determine whether a bundle of supply is a composite supply or a principal supply.

### **5. Composition Suppliers**

#### **Background:**

The current composition scheme is applicable only for manufacturers, traders and restaurant service providers. In the GST amendments, it has been proposed by the GST Council to enable registered manufacturers and traders to opt for composition scheme u/s 10(1) of the CGST Act even if they supply services of value not exceeding 10% of the turnover in the preceding FY in a State/Union territory or Rs. 5 lakhs, whichever is higher.

**Suggestion:**

The benefit of composition scheme must be extended to other service providers by providing certain percentage or ceiling for inter-state outward supplies of goods for the benefit of SME/MSME sector in true sense. Presently, a person opting for composition scheme is not allowed to make any inter-state outward supply of goods which is creating a bottle neck for small sector.

As person registering under composition scheme would be a small player penalties with respect to wrongly opting composition scheme or cancellation of registration etc. must be limited to recovery of differential taxes only without levying hefty penalties / interest

**6. Reverse Charge under Section 9(4) of the CGST Act to be removed completely****Background:**

GST Council has proposed to defer existing Section 9(4) of the CGST Act till September 2019 but, granting an enabling power for the Govt. to notify a class of registered persons who would be liable to pay tax on reverse charge basis in case of receipt of taxable goods or services from an unregistered supplier. The details of such specified persons are to be notified in future.

**Suggestion:**

Reverse Charge under Section 9(4) of the CGST Act is to be completely discarded as functioning of Section 9(4) in its existing form, if notified for a particular class of persons is not favorable as the registered recipient need to raise self-invoice, capturing individual HSN/ SAC codes for procurement of taxable goods or services, which is operationally not easing business.

**7. Compulsory Registration for "Agents"****Background:**

In terms of Section 24(vii) of the CGST Act, persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise, are required to compulsorily register in GST.

Further, as per 2(5) of the CGST Act, "agent" means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another".

**Suggestion:**

A suitable clarification is required with regard to the definition of "agent" under Section

2(5) (vii) of Section 24 of CGST Act as it covers only those persons who supply taxable goods on behalf of any other person i.e. consignment agents. Clarity on Compulsory Registration for "agents" is only confined to consignment agents? Controversy whether the commission agents or brokers who merely facilitate a transaction between two parties like procuring orders etc. are also debarred from the benefit of threshold limits of registration i.e. Rs. 20 Lac.

## **8. Input Tax Credit ("ITC") viz-a-viz registration**

### **Background:**

In terms of Rule 10(3) of the CGST Rules, 2017 ("**CGST Rules**"), where an application for registration has been submitted by the applicant after the expiry of 30 days from the date of his becoming liable to registration, the effective date of registration shall be the date of the grant of registration.

Further in terms of Section 18(1)(a) of the CGST Act, a person who has applied for registration under this Act within 30 days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.

### **Suggestion:**

An alternate mechanism is to be developed to provide relief of ITC when registration is not applied within 30 days. To enable trouble free procedure of Input Tax Credit an alternate mechanism may be developed for genuine cases and registration, credit of stock may be granted with effect from the date of liability if proved bonafide. Current provision is causing undue hardships for the intervening period i.e. between the date of liability and the date of grant of registration as no ITC is made available on procurements made during such period. Further, ITC is also denied for stock held on the day immediately preceding the date of liability to register.

## **9. Input Tax credit for Services during the transition period from an unregistered taxpayer to registered taxpayer**

### **Background:**

As per the provisions of the GST Act, any person who is eligible to be registered under GST, the effective date is from the date it is available to be registered. Input tax credit can be claimed on the closing stock.

### **Suggestion:**

In case the services are falling within 30 days from the eligible date for registration, it is

proposed to have a provision for the same as the contracts for the services will be for a more extended period. As on date, such provision is lacking in the act, and it is causing adversity to the trade and industry.

## **10. Enhancing the Scope Digital MSME Scheme**

### **Background:**

As a part of the Digitalization, the Government has introduced the Digital MSME Scheme where it is giving subsidy for the MSME units who embrace cloud computing for managing the day to day operations. In this scheme currently, ERP, Accounting and Manufacturing design is given importance. For MSME's which are basically a pen and paper based organizations have made to change their ideology and adopt to digitalization for meeting the compliance requirements under GST.

### **Suggestion:**

As part of ICT, the government should promote the usage of Point of Sales (PoS) machines which are closely integrated with the Inventory, Invoicing and GST Returns filing. This will ease the reporting compliance as the small traders are finding it difficult for tracking and maintaining inventory based on HSN codes. Subsidy may be given for procurement of such PoS machines so that it will increase the return filing ratio and also minimize the digital transactions which has increased during the demonetization period but the same started falling and reaching lower levels than the pre-demonetization period.

## **11. Time of supply**

### **Background:**

Section 14 of the CGST Act indicates the provisions for determining the time of supply in case where there is a change in the rate of tax in respect of supply of goods or services.

### **Suggestion:**

Clarification in case of change in rate of tax w.r.t continuous supply of services - In order to avoid possible litigation, it must be suitably clarified regarding time of supply in case of change in rate of tax w.r.t continuous supply of services/goods.

Time of supply provisions in case of new goods or services become taxable for first time – Like Rule 5 of the Point of Taxation Rules in erstwhile Service tax era, proper provisions be suitably provided to determine time of supply in case of new goods or services becoming taxable for the firsttime.

## 12. E-WayBill

### Background:

Section 129 of CGST Act validates detention and seizure of goods/conveyance and consequently levying penalty as high as 100% of tax payable along with tax payable for any contravention of provisions of GST Act and Rules made there under irrespective of there being any intent to evade taxes or not.

Wide powers conferred under this provision are causing harassment of taxpayers specially when there is some error or incomplete details in E-Way Bill. Recently Madhya Pradesh HC in the case of Gati Kintetsu Express Pvt. Ltd. Vs. Commissioner, Commercial Tax of MP & Ors [TS-307-HC-2018(MP)-NT], upheld penalty to the tune of INR 1.32 crores for not filing Part B of E-WayBill.

### Suggestion:

Amending Section 129 of the CGST Act to restrict levying of penalties only in cases where there is intent to evade taxes - Section 129 of the CGST Act must be amended to restrict levying of penalties only in cases where there is intent to evade taxes. Further, suitable provision must be incorporated which allows releasing of goods without levying penalty once the proof of payment of appropriate tax is shown or a mere technical breach is shown.

Making E-Way Bill compliance easier for SME/MSME – E-Way Bill compliance must be made little easy for small taxpayers upto specified turnover by prescribing simple form with lesser details. Alternatively, threshold of consignment value exceeding INR 50,000/- requiring generating of E-Way Bill may be increased to INR 2 Lakhs per consignment basis for small taxpayers.

## 13. HSN wise summary -GSTR-1

### Background:

Notification No. 12/2017 – Central Tax dated June 28, 2017 provides that a registered person whose annual turnover in the preceding financial year is less than Rs.1 .5 crores is not required to mention the digits of HSN codes in a tax invoice issued by him. However, in GSTR-1, every assessee is required to give the details of stock sold HSN codewise.

Further, such small tax payers are required to mention 4-digit HSN Code for generation of E- way Bill for movement of goods, having consignment value more than Rs. 50,000/-.

These divergent provisions and procedures are creating obstacles towards ease of business for SME/ MSME Sectors.

### Suggestion:

Institute suggests that an alternative way of reporting rate-wise supplies be established in new formats of returns to give relief to small traders who are otherwise not required to mention the digits of HSN codes in a tax invoice issued by them. System of uniformity and synchronization to be adhered for bringing simplicity and ease of business.

#### **14. Payment of taxes and return should be made quarterly for SME/ MSME sector**

##### **Background:**

GST Council in its 28<sup>th</sup> meeting has recommended quarterly returns for businesses having turnover up to Rs 5 crores instead of monthly filings. However, tax payment would be monthly.

##### **Suggestion:**

Institute is suggesting both the processes i.e Payment & Return being interlinked with each other and it should be made quarterly for SME/MSME sector instead of following two different systems for payment and returns filing.

#### **15. Maximum Pre-deposits for filing an appeal to Appellate Authority and Appellate Tribunal restricted to 10 Crores as per pre-GST era**

##### **Background:**

GST Council has proposed under Section 107(6) of the CGST Act to put a ceiling on the limit of the amount to be deposited before filing an appeal to the appellate authorities which is 10% of the disputed tax amount subject to maximum limit of Rs.25 crores. Further, it is also proposed under Section 112(8) of the CGST Act, the maximum amount to be deposited to file appeal from the appellate authority to appellate tribunal is 20% of the disputed tax amount along with the amount deposited u/s 107(6) subject to maximum of Rs. 50 crores.

##### **Suggestion:**

Maximum ceiling should be 10 crores - Under Excise and Service tax, pre-deposit @ 7.5% of tax in dispute at first level and 2.5% at second level was applicable subject to maximum of Rs. 10 crores. Keeping such high pre-deposit amount of 10%/20% with maximum ceiling as high as Rs. 25 crores/ 50 crores will cause undue hardship on innocent assesses having genuine case and not easing business for SME/ MSME Sectors.

It is suggested that, pre-deposit amount under GST also should be 7.5% at first level of appeal and 2.5% at second level, totaling together 10% of disputed tax amount subject to maximum of Rs. 10 Crores.



## **16. IGST credit on imports of finished goods affecting "Make in India" drive**

### **Background:**

Before GST era, traders were only allowed refund of Special Additional Duty (SAD), manufacturers were allowed the benefit of both Countervailing duty (CVD) and SAD component, creating encouraging position for manufacturers when compared with traders of finished goods. With advent of GST, CVD and SAD got subsumed in IGST, credit of which is allowed to both traders and manufacturers. This has brought manufacturer as well as traders of imported goods at par level affecting adversely the "Make in India" initiative of Prime Minister Shri Modi. Resultantly, Indian markets are flooded with cheap imported products, especially from China, causing pain for domestic manufacturers who create enormous employment for Indian population and backbone of Indian economy.

For example, there are a large number of small scale units who are into manufacturing of high quality wooden lacquered boxes which are used for packaging of Jewellery, Watches, Tea, Tie, Cufflink, Hankies, and Wedding Gifts etc. Post GST, most of their customers started importing the same from China as the effective duty on imports has reduced by around 16%. The Pre-GST & Post-GST duty structure is as under:

	Pre-GST	Post-GST
Basic Duty	10%	10%
Countervailing Duty	12.5%	
Special Additional Duty	4%	
IGST		12%

As imports of finished goods have become cheaper on par credit available to both manufacturer/ Trader, the domestic manufacturers are closing their operations and impacting adversely towards "Make in India" drive & there is loss of jobs in small scale units.

### **Suggestion:**

IGST credit to be restricted only on import of raw materials - Manufacturers of India must be boosted in comparison to their position with traders of imported finished goods. IGST credit on imports should be restricted only to the manufacturer of imported raw materials. Import of Finished goods must not be allowed par benefit of credit of IGST to the trader of imported finished goods. This will make the position of manufacturers wiser and encouraging as compared to importers. This will boost Make in India and promote domestic manufacturers.

## **17. Allowing filing of Advance Ruling by Association**

**Background:**

Presently, only a assessee/ taxpayer can file an application with the Hon“ble Authority for Advance Ruling. Such application cannot be filed jointly by an association representing the entire Industry.

**Suggestion:**

Taking into consideration the rigorous procedure involved in Advance Ruling provisions, filing of application on behalf of association representing its members in a State may be permitted. This will benefit small taxpayers not being able to adopt this route for seeking certainty of their GST issues. Such application can be accompanied with list of all the members with their GSTIN on whom such ruling shall be applicable.

**18. GST Refund****Background:**

As per GST amendments recently proposed under Section 54(3) of the CGST Act, allows filing of refund claim for the unutilized ITC on Inputs & Input Services by due date for furnishing of returns under Section 39 for the period for which the claim for refund of ITC arises, which is presently the end of the financial year.

**Suggestion:**

Facility on GSTN portal should be enabled to allow monthly and/ or quarterly refund – As of now Form RFD – 01A allows only monthly claim of refunds. Thus, proper GSTN functionality must be ensured for proper execution of proposed change.

Removing anomaly of no refund on unutilized ITC on capital goods as against Rebate Mechanism of export made on payment of IGST – The CGST Rules do not allow refund of ITC on capital goods when zero-rated supplies are made against LUT without payment of IGST, but in case of supplies made on payment of IGST, refund of ITC on capital goods is allowed. Institute is suggesting that such anomaly must be removed for creating par situations for both rebate and refund mechanisms.

**19. Input Tax Credit – Value of exempt supply for reversal of ITC****Background:**

In GST amendments, it is proposed that no reversal of common ITC shall be required on activities or transactions specified in Schedule III (other than sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building) by excluding it from the ambit of “exempt supply” for the purpose of reversal.

**Suggestion:**

Non-taxable supply Vs. Non-GST supply - Form GSTR-3B has used the term Non-GST supply which is now redefined in GST law. GST law only discussed the term

“non-taxable supply” to mean a supply of goods or services or both which is not leviable to tax under GST Act [Section 2(78) of the CGST Act]. Like, supply of five specified petroleum products and alcoholic liquor for human consumption may be termed as non-taxable supply. Then, what constitutes non-GST supply? Whether Schedule III items are being taken as non-GST supply? Clarity in this regard is required.

Clarification on meaning of “non-taxable supply” - A concrete list of activities constituting non-taxable supplies in GST be provided to avoid any confusion as to its inclusion in aggregate turnover and reversal of common credit.

## **20. GST Audit**

### **Background:**

Section 35(5) of CGST Act provides that every registered person whose **turnover** during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant. In this regard, Rule 80(3) of the CGST Rules states that every registered person whose **aggregate turnover** during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C.

### **Suggestion:**

Registration wise 2 crores limit must be computed - Anomaly of word “turnover” in Section 35(5) viz-a-viz word “aggregate turnover” in Rule 80(3) be removed. Further, clarity must be provided that two crores limit for GST audit shall be determined per State wise turnover rather than taking aggregate turnover on PAN India basis of an assessee. Considering aggregate turnover of an assessee will create a situation where one unit of such assessee having only Rs. 1,00,000 (assumed) turnover shall be required to conduct GST Audit just because its other units are crossing two crore limit.

## **21. Incentive on prompt payment of taxes and filing of returns**

### **Suggestion:**

The government should adopt the policy of Carrot and Stick, which means the honest taxpayer should be rewarded and the black sheep should be punished. If the MSME taxpayers pay the taxes promptly and also file the returns in time, there should be a certain percentage of the amount of tax paid should be rewarded back. This will prompt the taxpayers to be honest and take the incentive. This amount should be declared or given after the audit / assessment so that undue benefit will not be passed on the taxpayers. Also, region wise such taxpayers should be honored, this will also motivate others to pay taxes upfront.

The above recommendations will definitely give a flip the tax compliance and also increase the Tax GDP ratio.

## **22. Enhance the Limit of MSME**

### **Background:**

Decisions taken in the 28th GST Council Meeting, the class of person definition has been increased from Rs 300 lacs to Rs 500 lacs.

### **Suggestion:**

it is recommended to increase the scope to Rs 1000 lacs it will be covering many of the MSME industrial and service units and will benefit them at large. If we see the statistics the number of taxpayers who file the returns is about 93% have a turnover of over about Rs 500 lacs, that means still there is a scope for increasing the same.